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Supreme Court, U.S.
FILED

02 930 OCT 8 2002

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No._____

In The
Supreme Court of the United States of America

Robert Christopher Kettenburg, Petitioner

vs. ***Class Action***

The United States Federal Government, Respondents

On Petition for Writ of Certiorari to The United States Court of Appeals for the 2nd Circuit

SUPPLEMENTAL APPENDIX

Robert Christopher Kettenburg Pro Se, Petitioner
6594 Dysinger Road #17
Lockport, New York 14094
(716) 433-8611
http://www.angelfire.com/ny5/robkettenburg

APP

MEMORANDUM OPINION

U.S. District Court for the Western
District of Kentucky at Louisville

Civil Action No. 3:00CV228R

Robert Christopher Kettenburg,
Plaintiff,

-v-

The Federal Government of The United States of America and The University of Louisville,
Defendants.

ENTERED
August 15, 2000
Jeffrey A.Apperson, Clerk
By Susan Bridges
Deputy Clerk

This case presents Mr. Kettenburg's claim that the defendants conspired against him. The matter is before the Court for initial review. After examination of the pleadings, this Court has concluded that the claim is frivolous and fails to state a claim upon which relief can be granted.

Statement of Claim.

Mr. Kettenburg alleges that the United States of America conspired with University Hospital to intentionally involve him an automobile collision, arranging it to appear to be an accident. The purpose of this, according to Mr. Kettenburg, was to present an opportunity to perform surgery, during which defendants implanted in his chest a computer microchip that would identify him (falsely) as a pedophile. He asserts that this device allows defendants to monitor and harass him. Mr. Kettenburg states that the defendants have

attempted to lure him into Satanism, they have given him bad breath, they have made use of their surveillance to seduce his wife, and they have attempted to kill him on numerous occasions. He states, inter alia: Every time he steps into a restaurant his food is poisoned. Every time he steps into a bar his drink is poisoned. Every time he steps into a shopping mall or grocery store he is followed, harrassed, and treated very poorly. This is because law enforcement, as the Court is well aware, has placed sensor mechanisms in almost all of the shops and businesses across the country to detect the microcomputer chip that the defendants intentionally placed inside his chest through an act of brutal violence.

Complaint at page 4.

Discussion.

A complaint, or portion thereof, should be dismissed for failure to state a claim upon which relief may be granted only if it appears beyond doubt that plaintiff can prove no set of facts in support of the claim or claims that would entitle him to relief. See Hishon v. King & Spalding, 467 U.S. 69, 73 (1984), citing Conley v. Gibson, 355 U.S. 41, 45-46 (1957). Ordinarily, in reviewing a complaint under this standard, the Court must accept the allegations contained in the complaint as true. Hospital Bldg. C. v. Rex Hosp. Trustees, 425 U.S. 738, 740 (1976).

In Neitzke v. Williams, 490 U.S. 319, 327, 109 S.Ct. 1827, 1833 (1989), the Court referred to the power of a District Court to dismiss "claims describing fantastic or delusional scenarios, claims with which federal district judges are all too familiar." In Denton v. Hernandez, 504 U.S. 25, 112 S.Ct. 1728 (1992), the Court noted that an in

forma pauperis complaint may not be dismissed simply because the Court finds the allegations unlikely. However, a court may dismiss a claim as factually frivolous "when the facts alleged rise to the level of the irrational or the wholly incredible, whether or not there are judicially noticeable facts available to contradict them." Id. at 504 U.S. 32, 112 S.Ct. 1733. In McGore v. Wrigglesworth, 114 F.3d 601 (6th Cir. 1997), the United States Court of Appeals for the Sixth Circuit observed that the dismissal that was permitted by Denton was required by subsequent amendments to the pro se statute.

This principle of law has led to the dismissal of a claim that correctional personnel had placed voices inside a plaintiff's head. Morrison v. Martin, 755 F.Supp. 683 (E.D. N.C. 1990). Similarly, it calls for dismissal of this complaint. The technology described by plaintiff is altogether fanciful. Mr. Kettenburg may feel that people are watching him, but this is not sufficient to state a claim of the type he seeks to assert.

For the foregoing reasons, an order will enter dismissing the complaint as factually frivolous.

/s/ Thomas B. Russell, Judge
United States District Court

August 11, 2000
cc: Pro Se Plaintiff